



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/149744

PRELIMINARY RECITALS

Pursuant to a petition filed June 03, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on July 03, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined that Petitioner must pay a premium of \$54.00 per month, effective July 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Katherine May, HSPC
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On May 28, 2013, the agency sent Petitioner a notice indicating that effective July 1, 2013, she would need to pay a premium of \$53.00 per month to receive healthcare benefits. (Exhibit 2, pgs. 6 & 7)

3. Petitioner filed a request for fair hearing that was received on June 3, 2013.
4. On June 11, 2013, the agency sent Petitioner a new notice, indicating that effective July 1, 2013, she would need to pay a premium of \$54.00 per month to receive healthcare benefits. (Exhibit 5)
5. There are two people in Petitioner's household. (Testimony of Petitioner)
6. Petitioner earns income from the Wisconsin IRIS program (IRIS), working 42 hours per pay period, at \$8.00 an hour. Petitioner is paid bi-weekly. (Exhibit 3, pgs. 19 & 22)
7. Petitioner also earns income from Mid-America Healthcare Corporation (Mid-America) working an average of 26.25 hours per week at \$10.40 an hour, though sometimes less. Petitioner is paid bi-weekly. (Exhibit 3, pgs. 20 & 21)

DISCUSSION

Unless a member of a category of exempt individuals (i.e. pregnant women under age 19, continuously eligible newborns, etc.) the following individuals must pay a premium to become or remain eligible for BadgerCare+:

1. Children in families with income over 200% of the Federal Poverty Level (FPL)
2. Parents, stepparents and caretaker relatives with income over 133% through 200% of the FPL
3. Parents, stepparents and caretaker relatives with income over 133% in a BadgerCare+ extension and
4. Self-employed parents, stepparents and caretaker relatives with income above 200% of the FPL before subtracting the depreciation but below 200% of the FPL after subtracting the depreciation.

BadgerCare+ Eligibility Handbook (BEH) §19.1

Petitioner is a parent and as such, must pay a premium if her income falls between 133% and 200% of the FPL, which for a household of 2 is \$1719.03. *BEH § 50.1*

For BadgerCare+ purposes, only actual gross monthly income is used. Estimated amounts using the 4.3 weekly pay period or 2.15 bi-weekly pay period multipliers are NOT used. *Process Help §16.4.1*; see also *Ops Memo 01-01*.

Petitioner's gross income is determined as follows:

IRIS: 42 hours per pay period x \$8.00 per hour = \$336.00 per bi-weekly pay period
 \$336 x 2 pay periods per month = \$672.00 per month

Mid-America: 51.75 hours per week x \$10.40 an hour = \$538.20 per bi-weekly pay period
 \$538.20 x 2 pay periods per month = \$1076.40

**It should be noted that the copy of Petitioner's paystub, that the agency provided, was mostly illegible, but it appeared to show that Petitioner worked 26.25 hours one week and 25.50 hours the second week; which is consistent with the information contained in the Employer Verification Form that Mid-America completed for Petitioner.*

\$672.00 + 1076.40 = \$1748.40 gross monthly income.

Because Petitioner's gross income of \$1748.40 is over the 133% FPL threshold of \$1719.03, she must pay a premium to continue receiving healthcare benefits.

Premiums are determined on a sliding scale basis. *BEH § 48.1* Petitioner's income of \$1748.40 places her between 133% and 139% of FPL, which means she must pay 3% of her income as a premium. *Id.* 3% of \$1748.40 is \$52.45. Rounded to the nearest dollar, the premium is \$52.00 per month, not the \$54.00 per month determined by the agency.

Petitioner argues that she should not have to pay a premium, because she cannot afford it. However, inability to pay the required premium is not considered good cause for failing to pay the premium under *BEH § 19.8.3*. Petitioner should note that if an (adult) individual fails to pay the premium, her BadgerCare+ case will close. She will not be allowed to re-enroll in BadgerCare+ for 12 months, unless the failure to pay was for good cause, which is defined as:

1. Problems with the financial institution.
2. CARES problem.
3. Local agency problem.
4. Wage withholding problem.
5. Fair hearing decision.

See Wis. Adm. Code § DHS 103.085(3)(b)1; BEH § 19.8.1

Petitioner should also note that at this point, she will likely have to pay premiums for both July and August to continue receiving benefits.

CONCLUSIONS OF LAW

The agency correctly determined that Petitioner is required to pay a monthly premium.

The agency incorrectly determined the amount of the premium.

THEREFORE, it is

ORDERED

That the agency send Petitioner a new notice and premium payment information, correctly advising her that she must pay \$52.00 per month in premiums, effective July 1, 2013, if she wishes to continue receiving health care benefits. The agency shall take all steps necessary to do this within 10 days of this decision.

The Petition in all other respects is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

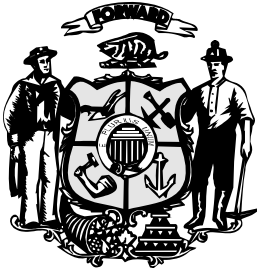
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of July, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoeft, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 22, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability